

REMARKS

Group I claims include independent claim 1 and independent claim 24, both directed to reverse link rate control for a mobile station. These claims establish that rate control requests depend on targeted queuing delays, reverse link throughput, and transmit data queue sizes. Claim 4 (from claim 1) and claim 27 (from claim 24) explain that these values may be used to generate reverse link rate requests (increase or decrease requests) by determining whether an expected queuing delay exceeds the targeted queuing delay. In this context, the transmit data queue size and the reverse link throughput provide a basis for determining the expected queuing delay.

The Restriction Requirement places the Group I claims in Class 370, Subclass 328. Class 370 holds “multiplex communications” art, and Subclass 328 is defined for art “having a plurality of contiguous regions served by respective fixed stations,” and is indented under Subclass 310 for “communication over free space.” That classification seems wrong to Applicant, but, if that classification applies to Group I claims, then it certainly applies to Group II claims as well. Both Group I and Group II claims are explicitly directed to reverse link rate control for a mobile station, and both claim groups include claims with explicit limitations to making reverse link rate requests based on expected queuing delays in comparison to targeted queuing delays. Compare, for example, the combined limitations of claims 1 and 4 in Group I with the limitations of claim 13 in Group II.

It is therefore logically inconsistent for the examiner to place Group II claims in Class 370, Subclass 252, which covers “determination of communication parameters,” and is indented under Subclass 241 for “diagnostic testing (other than synchronization).” The Restriction Requirement itself notes that the claims in Group I base reverse link rate requests on a number of parameters (data queue sizes, reverse link throughput, and targeted queuing delays). The examiner’s description of Group II claims acknowledges that claims in Group II are likewise directed to determining reverse link rate requests on targeted queuing delays.

With the above details in mind, the Restriction Requirement is facially inconsistent in placing Group I claims and Group II claims in different subclasses under Class 370. Moreover, there is no credible distinction drawn by the examiner in describing the subject matter of Group I and Group II claims. Respectfully, Applicant strongly feels there is no logical basis for the classifications applied to Group I and Group II claims. At a minimum, then, Applicant respectfully requests that the Group I and Group II claims be examined together in this application.

Turning from the Group I and Group II rebuttal arguments, Applicant better understands the examiner's restriction arguments relating to Groups IV and V. For example, the Group IV claims relate to forward link rate control rather than reverse link rate control. However, Applicant notes the significant similarity with the Group I and Group II claims, inasmuch as forward link rates and scheduling priority are set based on expected queuing delays and corresponding targeted queuing delays. In this sense, Applicant is confident that the appropriately conducted search for Group IV claims will necessarily cover substantially the same subject matter as the appropriate search for claims in Groups I and II.

In summary, Applicant understandably desires to have as many claims as are proper included for examination in this application, but also understands the purpose of (and need for) restriction practice when appropriate. At a minimum, Applicant believes that restriction is demonstrably improper between the Group I and Group II claims. Without question, the restriction between Groups I and II should be withdrawn. Applicant further believes that fair arguments further exist for withdrawing the restriction of Group III claims with respect to Groups I and II.

Should the examiner wish to discuss any arguments presented herein, the undersigned attorney would welcome a phone call. Applicant looks forward to the Office's next correspondence.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.

A handwritten signature in black ink, appearing to read 'MDM', with a stylized, cursive flourish at the end.

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